

NOTICE OF FINAL RULEMAKING
RULE 100 AND RULE 500 RULEMAKING PACKAGE
Maricopa County Air Pollution Control Regulations
PREAMBLE

1. **Rules Affected** **Rulemaking Action**

Rule 100 Amend
Rule 500 Amend

2. **The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing and implementing statutes: Arizona Revised Statutes (ARS) §49-406(G), ARS §49-479, and ARS §49-480.

3. **List of all previous notices addressing the proposed rules:**
 - September 3, 1998 Public Workshops were announced in Maricopa County's 3rd Quarter 1998 Notice Of Public Workshops And Hearings and in the Record Reporter on September 2 and 9, 1998.
 - October 29, 1998 Public Workshops were announced in Maricopa County's 4th Quarter 1998 Notice Of Public Workshops And Hearings and in the Record Reporter on October 7 and 14, 1998.
 - December 17, 1998 Public Workshops were announced in Maricopa County's 4th Quarter 1998 Notice Of Public Workshops and Hearings.
 - December 16, 1999 Public Workshops were announced in Maricopa County's 4th Quarter 1999 Notice Of Public Workshops And Hearings and in Maricopa County's 3rd Quarter 1999 Visibility Newsletter and in the Record Reporter on December 8 and 15, 1999.
 - May 3, 2000 Public Hearing was announced in Maricopa County's 2nd Quarter 2000 Notice Of Public Workshops And Hearings, in Maricopa County's 2nd Quarter 2000 Visibility Newsletter, and in the Record Reporter. Withdrawn and re-scheduled Public Hearing for July 26, 2000.
 - July 26, 2000 Public Hearing was announced in Maricopa County's 3rd Quarter 2000 Notice Of Public Workshops And Hearings, in Maricopa County's 3rd Quarter 2000 Visibility Newsletter, and in the Record Reporter.

4. **The name and address of agency personnel with whom persons may communicate regarding this rulemaking:**

Name: Johanna M. Kuspert or Jo Crumbaker, Air Quality Division
Address: 1001 North Central Avenue, Suite #201, Phoenix, AZ 85004
Telephone Number: 602-506-6710 or 602-506-6705
Fax Number: 602-506-6179
E-Mail Address: jkuspert@mail.maricopa.gov or jcrumbak@mail.maricopa.gov

5. **An explanation of the rules, including the agency's reasons for initiating the rules:**

Due to an administrative error in the notice and posting of the May 3, 2000 Public Hearing, this rulemaking package was withdrawn from the May 3, 2000 Public Hearing and re-scheduled for the July 26, 2000 Public Hearing. The explanation of the rules in

this rulemaking package (described below) has not changed from the previous Public Hearing notice.

Maricopa County is proposing to revise Rule 100 and Rule 500 in order to address the Environmental Protection Agency's (EPA's) written comments dated July 10, 1998, regarding the New Source Review/Prevention Of Significant Deterioration (NSR/PSD) Permit Rules and to make both rules more easily understood by the reader.

From June 1999 through March 2000, Maricopa County conducted (10) Staff meetings, (4) conference calls with EPA, (5) informal work group meetings with industries most affected by these rules, and (2) Public Workshops. See Item #10, in this Notice Of Final Rulemaking, for a description of the changes that Maricopa County is proposing to Rule 100 and Rule 500.

6. **A showing of good cause why the rules are necessary to promote a statewide interest if the rules will diminish a previous grant of authority of a political subdivision of this State:**

Not applicable.

7. **A reference to any study that the agency proposes to rely on its evaluation of or justification for the proposed rules and where the public may obtain or review the study, all data underlying each study, any analysis of the study, and other supporting material:**

Not applicable.

8. **Economic information:**

The intent of Rule 100 and Rule 500 is to prevent, reduce, control, correct, or remove air pollution originating within the territorial limits of Maricopa County and to carry out the mandates of Arizona Revised Statutes (ARS), Title 49 (The Environment). Rule 100 and Rule 500 are administrative rules and apply to all sources. The proposed revisions to Rule 100 and to Rule 500 implement changes recommended by the Environmental Protection Agency (EPA) and streamline the air permitting process.

9. **The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic information described in Item #8 of this Notice Of Final Rulemaking:**

Name: Johanna M. Kuspert or Jo Crumbaker, Air Quality Division
Address: 1001 North Central Avenue, Suite #201, Phoenix, AZ 85004
Telephone Number: 602-506-6710 or 602-506-6705
Fax Number: 602-506-6179
E-Mail Address: jkuspert@mail.maricopa.gov or jcrumbak@mail.maricopa.gov

10. **A description of the changes between the current/most recent edition of the rules and the final draft rules to be discussed during the Public Hearing scheduled for July 26, 2000:**

Maricopa County will discuss the revisions described below (and as shown in the final draft rules) during the Public Hearing before the Maricopa County Board Of Supervisors scheduled for July 26, 2000. See Item #12 in this Notice Of Final Rulemaking for Public Hearing details. Also, see Item #5, in this Notice Of Final Rulemaking, for more details about this rulemaking process.

All Sections In Rule 100 And Rule 500 Of The Current/Most Recent Edition Of Such Rules That Are Being Revised In This Rulemaking Package:

Rule 100 (General Provisions And Definitions):

- Section 200.22 (Definition Of Attainment Area)
- Section 200.33 (Definition Of Complete)
- Section 200.43 (Definition Of Emission Standard)
- Section 200.60 (Definition Of Major Source)
- Section 200.63 (Definition Of Material Permit Condition)
- Section 200.64 (Definition Of Method Of Operation)
- Section 200.69 (Definition Of Non-Precursor Organic Compound)

Rule 500 (Attainment Area Classification):

- Section 201 (Definition Of Baseline Concentration)
- Subsection 302.4(b) (Limitation Of Pollutants In Classified Attainment Areas)

11. A summary of the principal comments and the agency's response to them:

Maricopa County received written comments regarding the proposed revisions to Rule 100 and Rule 500 during this rulemaking process. Maricopa County has addressed the written comments in the following summary:

Comment: Rule 100, Definition Of Actual Emissions: Maricopa County should adjust the definition of actual emissions to be more consistent with the Environmental Protection Agency's (EPA's) proposed language for determining future actual emissions in its proposed New Source Review reform rule (61 FR 38,250 (July 23, 1996)).

Response: The definition of actual emissions in Rule 100 matches Arizona Department Of Environmental Quality's (ADEQ's) rule R18-2-101(2) (Definition Of Actual Emissions). ADEQ has made the following response, and it also applies to Maricopa County: The definition of actual emissions as proposed should more clearly reflect the future emissions being emitted from an emissions unit. The former definition of actual emissions applied to Title V sources and to Non-Title V sources and required actual emissions for a new emissions unit to be its maximum potential to emit. Although Federal requirements mandate that the definition of actual emissions be retained for Title V sources, ADEQ has modified the definition of actual emissions, as it applies to Non-Title V sources, to define actual emissions for these sources in terms of projected actual operational conditions. ADEQ believes that the new definition of actual emissions regarding Non-Title V sources will result in a simpler and more accurate calculation of actual emissions for new emission units.

Comment: Rule 100, Definition Of Allowable Emissions: It may be possible that a source may not be restricted by operating rate or hours of operation but still be restricted by emission limits specified in the source's permit conditions. The definition of allowable emissions currently requires that operating limits and federally enforceable permit conditions be used in determining allowable emissions. However, sources should be able to use a method of operation or a federally enforceable permit condition to determine allowable emissions.

Response: In order to address the Environmental Protection Agency's (EPA's) written comments dated July 10, 1998, regarding the New Source Review/Prevention Of

Significant Deterioration (NSR/PSD) Permit Rules, Maricopa County changed the introduction of the definition of allowable emissions to read: Allowable Emissions – The rate of a stationary source calculated using the maximum rated capacity of the source (unless the source is subject to federally enforceable limits which restrict the operating rate or hours of operation, or both) and the most stringent of the following... Aside from this change, the definition of allowable emissions in Rule 100 matches ADEQ's rule R18-2-101(11) (Definition Of Allowable Emissions). Maricopa County did not change the requirement that operating limits and federally enforceable permit conditions be used in determining allowable emissions.

Comment: Rule 100, Definition Of Modification: An explanation of what constitutes “any relevant de minimis amount” should be included in the definition of modification or elsewhere in Rule 100.

Response: For the purpose of Rule 100, Definition Of Modification, the term, de minimis, refers to Rule 200 (Permit Requirements), Subsection 303.3(c) (Non-Title V Permit). Rule 200, Subsection 303.3(c) lists activities and associated emission limits that are exempt from a Non-Title V Permit.

Comment: Rule 100, Section 401 (Certification Of Truth, Accuracy, And Completeness): Rule 100, Section 401 requires all reports, including “emergency” and excess emission reports, to be signed by a responsible corporate official. Because the responsible corporate official is a senior officer, he often must travel and may not always be available to sign an emergency report or excess emissions report. Rule 100, Section 401 should be modified to allow signing of these notification reports by a knowledgeable person at the respective facility.

Response: Rule 100, Section 401 requires that, at the time of submittal, a responsible official certify as to the truth, accuracy, and completeness of an application form or report. For the purposes of Maricopa County's Air Pollution Control Rules And Regulations, a responsible official for a corporation includes any person who performs policy and decision-making functions for the corporation similar to those functions performed by the corporation president, secretary, treasurer, or vice-president and includes a duly authorized representative. With this broad definition of responsible official, there should always be someone available to sign an emergency report or an excess emissions report.

Comment: Rule 500: Per the Environmental Protection Agency's (EPA's) written comments dated July 10, 1998, regarding the New Source Review/Prevention Of Significant Deterioration (NSR/PSD) Permit Rules, Rule 500 is missing provisions, which meet the requirements of 40 Code Of Federal Regulations (CFR) 51.166(b)(14)(iv), which partially define “minor source baseline date”. This section of the CFR requires that a minor source baseline date, established for total suspended particulates (TSP) increments, be used to determine the remaining PM₁₀ increments, except where the TSP trigger source can be shown to have not been a significant source of PM₁₀. Since Maricopa County has indicated that the TSP baseline date was triggered in 1980, this requirement must be included in Rule 240.

Response: Maricopa County did not change Rule 500, in response to EPA's comment. Rule 500 matches ADEQ rule R18-2-217 (Designation And Classification Of Attainment Areas).

Comment: Rule 500: Per the Environmental Protection Agency's (EPA's) written comments dated July 10, 1998, regarding the New Source Review/Prevention Of Significant Deterioration (NSR/PSD) Permit Rules, Rule 500 is missing provisions, which meet the requirements of 40 CFR 51.166(b)(15)(ii)(b), which partially define “baseline area”. This section requires that the baseline areas determined for total suspended particulates (TSP) increments shall remain in effect for PM₁₀ increments, unless the trigger source can be shown to have not been a significant source of PM₁₀. Since

Maricopa County has indicated that the TSP baseline date was triggered in 1980, this requirement must be included in Rule 500.

Response: Maricopa County did not change Rule 500, in response to EPA's comment. Rule 500 matches ADEQ rule R18-2-218 (Limitation Of Pollutants In Classified Attainment Areas).

Comment: Rule 500, Section 201 (Definition Of Baseline Concentration): Per the Environmental Protection Agency's (EPA's) written comments dated July 10, 1998, regarding the New Source Review/Prevention Of Significant Deterioration (NSR/PSD) Permit Rules, Section 201 seems unnecessary, since the requirements of 40 CFR 51.166(b)(13) seem to be covered in Rule 500, Subsection 302.2 (Limitation Of Pollutants In Classified Attainment Areas)

Response: In order to address EPA's written comments dated July 10, 1998, regarding the New Source Review/Prevention Of Significant Deterioration (NSR/PSD) Permit Rules, Maricopa County deleted Rule 500, Section 201 (Definition Of Baseline Concentration).

Comment: Rule 500, Subsection 301.1 (Designation And Classification Of Attainment Areas-Class I Areas): Per the Environmental Protection Agency's (EPA's) written comments dated July 10, 1998, regarding the New Source Review/Prevention Of Significant Deterioration (NSR/PSD) Permit Rules, Subsection 301.1 adds language, which is not in 40 CFR 51.166(e)(1). In addition to the list of parks and wilderness areas, which were in existence on August 7, 1977, Subsection 301.1 adds: "...including any boundary changes to those areas which occurred subsequent to the date of enactment of the Clean Air Act Amendments of 1977 and before March 12, 1993". Please provide an explanation of why Maricopa County believes these boundary changes should be included as mandatory Class I areas. Also, Subsection 301.1 is missing a provision, as per 40 CFR 51.166(e)(2), stating that "areas which were redesignated as Class I under regulations promulgated before August 7, 1977, shall remain Class I areas, but may be redesignated as provided in this section". This provision is implicitly allowed in Rule 500 but not stated outright. For clarity, Maricopa County should explicitly state this provision in Rule 500.

Response: Maricopa County did not change Rule 500, Subsection 301.1, in response to EPA's comment. Rule 500, Subsection 301.1 matches ADEQ rule R18-2-217(B) (Redesignation And Classification Of Attainment Areas).

Comment: Rule 500, Subsection 301.3(a) (Designation And Classification Of Attainment Areas-Redesignation As Class I Area Or Class II Area): Per the Environmental Protection Agency's (EPA's) written comments dated July 10, 1998, regarding the New Source Review/Prevention Of Significant Deterioration (NSR/PSD) Permit Rules, Subsection 301.3(a) requires that a Public Hearing be held in or near the affected area any time redesignation to Class I or to Class II is proposed. Subsection 301.3(a) must be expanded to include the requirement in 40 CFR 51.166(g)(2)(i), which states that the Public Hearing must be held in accordance with the procedures established in 40 CFR 51.102.

Response: Maricopa County did not change Rule 500, Subsection 301.3(a), in response to EPA's comment. Rule 500, Subsection 301.3(a) matches ADEQ rule R18-2-217(E)(1) (Redesignation And Classification Of Attainment Areas).

Comment: Rule 500, Subsection 301.3(c) (Designation And Classification Of Attainment Areas-Redesignation As Class I Area Or Class II Area): Per the Environmental Protection Agency's (EPA's) written comments dated July 10, 1998, regarding the New Source Review/Prevention Of Significant Deterioration (NSR/PSD) Permit Rules, Subsection 301.3(c) requires that, for any proposed Class I or Class II redesignation, a "description and analysis of health, environment, economic, social, and energy effects of the

proposed redesignation” be prepared. This language is inconsistent with 40 CFR 51.166(g)(2)(iii), which requires a “satisfactory description and analysis of health...”

Response: Maricopa County did not change Rule 500, Subsection 301.3(c), in response to EPA’s comment. Rule 500, Subsection 301.3(c) matches ADEQ rule R18-2-217(E)(3) (Redesignation And Classification Of Attainment Areas).

Comment: Rule 500, Subsection 301.3(d) (Designation And Classification Of Attainment Areas-Redesignation As Class I Area Or Class II Area): Per the Environmental Protection Agency’s (EPA’s) written comments dated July 10, 1998, regarding the New Source Review/Prevention Of Significant Deterioration (NSR/PSD) Permit Rules, Subsection 301.3(d) requires that, prior to any proposed Class I or Class II redesignation, the State must confer with “the elected leadership of local governments in the area covered by the proposed redesignation”. This requirement is inconsistent with 40 CFR 51.166(g)(2)(v), which requires consultation with “the elected leadership of local and other substate general purpose governments.”

Response: Maricopa County did not change Rule 500, Subsection 301.3(d), in response to EPA’s comment. Rule 500, Subsection 301.3(d) matches ADEQ rule R18-2-217(E)(5) (Redesignation And Classification Of Attainment Areas).

Comment: Rule 500, Subsection 301.4(c) (Designation And Classification Of Attainment Areas-Redesignation As Class III Area): Per the Environmental Protection Agency’s (EPA’s) written comments dated July 10, 1998, regarding the New Source Review/Prevention Of Significant Deterioration (NSR/PSD) Permit Rules, Subsection 301.4(c) requires that, prior to any proposed Class III redesignation, “the general purpose units of local government representing a majority of the residents of the area to be redesignated concur in the redesignation”. This requirement is inconsistent with 40 CFR 51.166(g)(3)(ii), which requires that such units of government must not only concur, but must also “enact legislation (including resolutions where appropriate) concurring in the redesignation”.

Response: Maricopa County did not change Rule 500, Subsection 301.4(c), in response to EPA’s comment. Rule 500, Subsection 301.4(c) matches ADEQ rule R18-2-217(F)(3) (Redesignation And Classification Of Attainment Areas).

Comment: Rule 500, Subsection 301.4(d) (Designation And Classification Of Attainment Areas-Redesignation As Class III Area): Per the Environmental Protection Agency’s (EPA’s) written comments dated July 10, 1998, regarding the New Source Review/Prevention Of Significant Deterioration (NSR/PSD) Permit Rules, in order to be consistent with 40 CFR 51.166(g)(3)(iii), Subsection 301.4(d) must be modified to require that a redesignation cannot cause or contribute to a violation of a national ambient air quality standard.

Response: Maricopa County did not change Rule 500, Subsection 301.4(d), in response to EPA’s comment. Rule 500, Subsection 301.4(d) matches ADEQ rule R18-2-217(F)(4) (Redesignation And Classification Of Attainment Areas).

Comment: Rule 500, Subsection 301.4(e) (Designation And Classification Of Attainment Areas-Redesignation As Class III Area): Per the Environmental Protection Agency’s (EPA’s) written comments dated July 10, 1998, regarding the New Source Review/Prevention Of Significant Deterioration (NSR/PSD) Permit Rules, Subsection 301.4(e) should specify that the Public Hearing will be on the redesignation of the area as Class III.

Response: Maricopa County did not change Rule 500, Subsection 301.4(e), in response to EPA’s comment. Rule 500, Subsection 301.4(e) matches ADEQ rule R18-2-217(F)(5) (Redesignation And Classification Of Attainment Areas).

Comment: Rule 500, Subsection 302.2(b)(1) (Limitation Of Pollutants In Classified Attainment Areas): Subsection 302.2(b)(1) contains one event, which would trigger the

minor source baseline date for an attainment area. There is a reference in this section to the case where “a major source as defined in Rule 240, Section 210 of these rules or a major modification submits a complete permit application to the Administrator under 40 CFR 52.21”. To be internally consistent, this sentence should be changed to: “...a major source or a major modification, as defined in 40 CFR 52.21, submits a complete permit application to the Administrator under 40 CFR 52.21.”

Response: Maricopa County did not change Rule 500, Subsection 302.2(b)(1). Rule 500, Subsection 302.2(b)(1) matches ADEQ rule R18-2-218(B)(2)(a) (Limitation Of Pollutants In Classified Attainment Areas).

Comment: Rule 500, Subsection 302.4(b) (Limitation Of Pollutants In Classified Attainment Areas): Per the Environmental Protection Agency’s (EPA’s) written comments dated July 10, 1998, regarding the New Source Review/Prevention Of Significant Deterioration (NSR/PSD) Permit Rules, Subsection 302.4(b) is designed to meet the requirements of 40 CFR 51.166(b)(15)(ii)(b), which define “baseline area”. The reference to “Rule 240, Section 306” should be changed to “Rule 240, Section 308”, in order to be consistent with the CFR, which refers to “regulations approved pursuant to 40 CFR 51.166”. Rule 240, Section 308 (Permit Requirements For Sources Located In Attainment And Unclassified Areas) fits this description. Rule 240, Section 306 (Offsets And Net Air Quality Benefit Standards) contains requirements for sources located in non-attainment areas.

Response: In order to address EPA’s written comments dated July 10, 1998, regarding the New Source Review/Prevention Of Significant Deterioration (NSR/PSD) Permit Rules, Maricopa County changed the reference in Rule 500, Subsection 302.4(b) from “Rule 240, Section 306” to “Rule 240, Section 308”.

Comment: Rule 500, Subsection 302.6(e)(1) (Limitation Of Pollutants In Classified Attainment Areas): Per the Environmental Protection Agency’s (EPA’s) written comments dated July 10, 1998, regarding the New Source Review/Prevention Of Significant Deterioration (NSR/PSD) Permit Rules, Subsection 302.6(e)(1) allows Control Officer discretion in approving an extension to the two-year limit on temporary emissions, which are exempt from the increment consumption requirements. This subsection is inconsistent with 40 CFR 51.166(f)(4)(iii)(b), which states that the Environmental Protection Agency (EPA) must approve this extension.

Response: Maricopa County did not change Rule 500, Subsection 302.6(e)(1). Rule 500, Subsection 302.6(e)(1) matches ADEQ rule R18-2-218(F)(5)(a) (Limitation Of Pollutants In Classified Attainment Areas).

Comment: Rule 500, Subsection 302.6(e)(2) (Limitation Of Pollutants In Classified Attainment Areas): Per the Environmental Protection Agency’s (EPA’s) written comments dated July 10, 1998, regarding the New Source Review/Prevention Of Significant Deterioration (NSR/PSD) Permit Rules, Subsection 302.6(e)(2) states that no temporary increase in emissions that is otherwise allowed by this portion of Rule 500 shall “cause or contribute to a violation of a State ambient air quality standard”. This subsection is inconsistent with 40 CFR 51.166(f)(4)(iii)(b), which states that such an increase must not “cause or contribute to a violation of a national ambient air quality standard”.

Response: Maricopa County did not change Rule 500, Subsection 302.6(e)(2). Rule 500, Subsection 302.6(e)(2) matches ADEQ rule R18-2-218(F)(5)(b) (Limitation Of Pollutants In Classified Attainment Areas).

12. The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rules, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rules:

Public Hearing: Wednesday, July 26, 2000

Maricopa County Board Of Supervisors' Auditorium
205 West Jefferson Street, Phoenix, Arizona

Call 602-506-0169 for current information. Copies of this Notice Of Final Rulemaking re: Rules 100 and Rule 500 will be available at least 30 days before the Public Hearing for public inspection at the offices of the Maricopa County Environmental Services Department, Air Quality Division, 1001 North Central Avenue, #201, Phoenix, Arizona, 85004, Phone 602-506-6794, and on the internet at <http://www.maricopa.gov/sbeap>. A sign language interpreter, alternative form materials, or infrared assistive listening devices will be made available upon request with 72 hours notice. Additional reasonable accommodations will be made available at the Public Hearing to the extent possible within the time frame of the request. Request should be made to 602-506-6794.

13. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rules or class of rules:

Not applicable.

14. Incorporations by reference:

Not applicable.

15. The full text of the final draft rules follows:

Due to the size of this rulemaking package, the final draft rules are located in separate documents.

Note: Draft Rule 100 includes not only the revisions proposed in the Facility Change Rulemaking Package, but also the revisions proposed in the Excess Emissions Rulemaking Package and in the Rule 100 And Rule 500 Rulemaking Package.